

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Case No. 3:24-CV-00137-RJC-DCK**

CMT USA, INC. and CMT UTENSILI S.p.A.,

Plaintiffs,

v.

APEX TOOL GROUP LLC and APEX
BRANDS, INC.

Defendants.

**MOTION TO EXCLUDE OPINIONS
AND TESTIMONY OF APEX’S
PROPOSED EXPERT DAVID
FRANKLYN**

NOW COME Plaintiffs CMT USA, Inc. and CMT Utensili S.p.A. (collectively “CMT”), by and through counsel and pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), respectfully submit this Motion to Exclude Opinions and Testimony of Apex’s Proposed Expert David Franklyn.

As set forth more fully in the Memorandum filed contemporaneously herewith, Mr. Franklyn’s opinions are not based on reliable methodology (and indeed suffer from serious methodological flaws), are irrelevant to the issues at trial, and/or concern matters for which he has no expertise. His opinions and testimony would not aid the trier of fact but instead risk misleading the jury and unfairly prejudicing CMT.

WHEREFORE, for the reasons stated herein and in the Memorandum and Declaration of Robert E. Colletti with accompanying exhibits, CMT respectfully requests that the Court enter an Order excluding the opinions and testimony of David Franklyn.

Respectfully submitted, this 9th day of May, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF System. Service of same on any counsel of record will be accomplished through the Court's electronic filing system in accordance with Federal Rule of Civil Procedure 5(b)(2)(E).

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